

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

II.

Named herein as Defendants individually and *in personam* (collectively the “Indebted Defendants”) are:

- A. **OSV Determination, L.L.C.**, a limited liability company organized and existing under the laws of the State of Louisiana;
- B. **John David Silvetti**, a/k/a John D. Silvetti, II, hereafter sometimes referred to as “John Silvetti,” on information and belief an individual who is domiciled in the State of Louisiana;
- C. **Alternative Positioning Solutions, L.L.C.**, hereafter sometimes referred to as “Alternative Positioning Solutions,” a limited liability company organized and existing under the laws of the State of Louisiana;
- D. **Marine Surveys, L.L.C.**, hereafter sometimes referred to as “Marine Surveys,” a limited liability company organized and existing under the laws of the State of Louisiana; and
- E. **Silvetti Marine Services, L.L.C.**, hereafter sometimes referred to as “Silvetti Marine Services,” a limited liability company organized and existing under the laws of the State of Louisiana.

III.

John Silvetti, Alternative Positioning Solutions, Marine Surveys and Silvetti Marine Services are hereafter sometimes collectively referred to as the “Guarantors” and each individually referred to as a “Guarantor.”

IV.

Also named herein as Defendant *in rem* is the vessel **OSV Determination**, f/k/a Ocean

Surveyor, a documented vessel bearing Official Number 1052907, together with and inclusive of its engines, machinery, equipment, fixtures, appurtenances, etc. (the “Documented Vessel”).

V.

This action seeks (a) enforcement of a certain preferred ship mortgage and other security interests in the Documented Vessel and of related civil and maritime contractual rights in favor of Plaintiff and against the Documented Vessel, *in rem*, and OSV Determination, L.L.C. and (b) a money judgment on the related indebtedness owed by OSV Determination, L.L.C. and the Guarantors.

Jurisdiction And Venue

VI.

This action falls within this Court’s admiralty and maritime subject matter jurisdiction within the meaning of 28 U.S.C. § 1333 and 46 U.S.C. § 31301, *et seq.*, as hereinafter fully appears, and is *inter alia* an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure. In addition, any claims which do not fall within this Court’s admiralty and maritime subject matter jurisdiction are within this Court’s supplemental jurisdiction under 28 U.S.C. § 1367. Venue is in the Western District of Louisiana, Lafayette Division, in that the Documented Vessel is found and located here and will remain here during the pendency of this action.

VII.

At all the times herein mentioned, OSV Determination, L.L.C. was and still is the owner, and in possession and control, of the following Documented Vessel, which is documented under the laws of the United States of America in the name of OSV Determination, L.L.C.:

OSV DETERMINATION

f/k/a Ocean Surveyor

A documented vessel bearing Official Number 1052907

VIII.

The Documented Vessel is now, and during the pendency of this action will be, within this Western District of Louisiana.

**Plaintiff's Claims Against OSV Determination, L.L.C., Guarantors
And Documented Vessel**

IX.

To evidence an indebtedness owed to Regions Bank for one or more loans, OSV Determination, L.L.C. executed a promissory note dated May 28, 2010 in the principal amount of \$2,697,363.00 and payable to the order of Regions Bank. The Guarantors each signed an *in solido* Commercial Guaranty dated May 28, 2010 to guarantee repayment of the promissory note indebtedness to Regions Bank.

X.

Also securing the repayment of the promissory note indebtedness of OSV Determination, L.L.C. to Regions Bank was a *First Preferred Ship Mortgage* (the "Ship Mortgage") dated effective December 7, 2009, granted by OSV Determination, L.L.C., as mortgagor, in favor of Regions Bank, as mortgagee, and encumbering and covering 100% of the vessel OSV DETERMINATION, bearing Official Number 1052907, with related items as further described therein. A true and correct copy of the Ship Mortgage is attached hereto as Exhibit "P-1". The Ship Mortgage was recorded with the U.S. Coast Guard, National Vessel Documentation Center, on December 14, 2009 under Batch No. 723045, Document ID 11358003, in substantial compliance with 46 U.S.C. § 31321.

XI.

At the time the Ship Mortgage was executed by OSV Determination, L.L.C., the Documented Vessel mortgaged therein was documented under the laws of the United States of America and flagged

as a U.S. vessel. On information, the Documented Vessel remains as of this date a U.S. vessel.

XII.

Effective on or about December 13, 2012, and for good and valuable consideration, Plaintiff acquired by assignment all rights and interests of Regions Bank in and to the promissory indebtedness and the related Ship Mortgage.

XIII.

The assignment of the Ship Mortgage by Regions Bank to Plaintiff was evidenced by an *Assignment Of First Preferred Ship Mortgage* (the “Ship Mortgage Assignment”) dated effective December 13, 2012 and executed by Regions Bank in favor of Plaintiff. A true and correct copy of the Ship Mortgage Assignment is attached hereto as Exhibit “P-2”. The Ship Mortgage Assignment was recorded with the U.S. Coast Guard, National Vessel Documentation Center, on February 4, 2013 under Batch No. 8822900, Document ID 3, in substantial compliance with 46 U.S.C. § 31321.

XIV.

After Plaintiff became the holder of the indebtedness owed by OSV Determination, L.L.C. to Regions Bank, Plaintiff and OSV Determination, L.L.C. entered into a *First Amendment To First Preferred Ship Mortgage* (the “Ship Mortgage Amendment”) dated May 3, 2013 and pertaining to the Documented Vessel OSV DETERMINATION. A true and correct copy of the Ship Mortgage Amendment is attached hereto as Exhibit “P-3”. The Ship Mortgage Amendment was recorded with the U.S. Coast Guard, National Vessel Documentation Center, on May 13, 2013 under Batch No. 11343300, Document ID 3, in substantial compliance with 46 U.S.C. § 31321.

XV.

At the time of the execution of the Ship Mortgage Amendment, OSV Determination, L.L.C. also executed a *Security Agreement* (the “Security Agreement”) dated May 3, 2013 in favor of Plaintiff and granting security interests or liens, pursuant to the Uniform Commercial Code (La. R.S. 10:9-101, *et seq.*) or other applicable law, in the accounts, inventory, equipment, general intangibles, the Documented Vessel, books and records, proceeds and products of collateral and other items therein described. A true and correct copy of the Security Agreement is attached hereto as Exhibit “P-4”. The security interests and liens granted by OSV Determination, L.L.C. to Plaintiff in the Security Agreement were perfected by the filing of a *UCC-1 Financing Statement* (the “Financing Statement”), a true and correct copy of which is attached hereto as Exhibit “P-5.” The Financing Statement was filed on May 14, 2013 as UCC #361124514, and as Mortgage Instrument #1124514, in the official records of the Parish of Orleans.

XVI.

The promissory note acquired by Plaintiff from Regions Bank was renewed or replaced (without novation) a number of times by agreement of Plaintiff and OSV Determination, L.L.C.

XVII.

The current instrument indicating the indebtedness owed by OSV Determination, L.L.C. to Plaintiff is that certain *Promissory Note* (the “Current Note”) dated July 31, 2014 and executed by OSV Determination, L.L.C. payable to the order of Plaintiff in the principal sum of \$2,431,293.07 and having such other terms and conditions as set forth therein. A true and correct copy of the Current Note is attached hereto as Exhibit “P-6”.

XVIII.

The Current Note matured per its terms on October 31, 2014. OSV Determination, L.L.C. is in default at this time for repayment of both principal and interest overdue and owing on the Current Note to Plaintiff.

XIX.

Repayment of the Current Note and the indebtedness it evidences are secured by the above-mentioned Ship Mortgage, as amended by the Ship Mortgage Amendment, by OSV Determination, L.L.C., as mortgagor, in favor of Plaintiff, as mortgagee.

XX.

Repayment of the Current Note and the indebtedness it evidences are further secured by the security interests and liens granted in the above-mentioned Security Agreement, by OSV Determination, L.L.C., as grantor, in favor of Plaintiff, as grantee.

XXI.

The above-mentioned Guarantors are liable, separately and together, *in solido* with OSV Determination, L.L.C. and each other for repayment of the Current Note and the indebtedness it evidences by virtue of the following instruments:

- A. That certain *Commercial Guaranty* dated May 28, 2010 executed by Defendant, John David Silvetti, a/k/a John D. Silvetti, II, and now held by Plaintiff, as assignee of Regions Bank, a true and correct copy of which is attached hereto as Exhibit "P-7";
- B. That certain *Commercial Guaranty* dated May 28, 2010 executed by Defendant, Alternative Positioning Solutions, L.L.C., and now held by Plaintiff, as assignee

of Regions Bank, a true and correct copy of which is attached hereto as Exhibit “P-8”;

C. That certain *Commercial Guaranty* dated May 28, 2010 executed by Defendant, Marine Surveys, L.L.C., and now held by Plaintiff, as assignee of Regions Bank, a true and correct copy of which is attached hereto as Exhibit “P-9”;

and

D. That certain *Commercial Guaranty* dated May 28, 2010 executed by Defendant, Silvetti Marine Services, L.L.C., and now held by Plaintiff, as assignee of Regions Bank, a true and correct copy of which is attached hereto as Exhibit “P-10”.

Further evidence of the Guarantors’ liability for the indebtedness owed to Plaintiff is set forth in correspondence signed by the Guarantors dated May 3, 2013, a true and correct copy of which is attached hereto as Exhibit “P-11”.

XXII.

Defendants, OSV Determination, L.L.C. and the Guarantors are, separately and together, justly and truly indebted *in solido* to Plaintiff on the Current Note in the full and true principal sum of \$2,431,293.07, plus accrued interest in the amount of \$98,880.09 as of and through July 1, 2015, *per diem* interest in the amount of \$587.56 (based on an interest rate of 8.70% per annum for a 360-day year), late charges of 5.00% of the principal amount overdue and owing, and reasonable attorney fees and collection costs and expenses incurred by Plaintiff.

XXIII.

Plaintiff, through its attorneys, made amicable demand upon OSV Determination, L.L.C. and the Guarantors for payment of principal, interest and attorney fees overdue and owing on the Current

Note in correspondence dated April 6, 2015, a true and correct copy of which is attached hereto as Exhibit "P-12", but to no avail.

WHEREFORE, Plaintiff, SummitBridge Credit Investments IV LLC, prays:

1.

That process in due form of law according to the course and practice of this Honorable Court in causes in admiralty and maritime jurisdiction issue to enforce the Ship Mortgage, as amended by the Ship Mortgage Amendment, against the following Documented Vessel, and its engines, machinery, equipment, fixtures, appurtenances, etc., and all other necessities thereunto appertaining and belonging, *in rem*, and against OSV Determination, L.L.C., *in personam*, and that all persons claiming any interest in the Documented Vessel be cited to appear and answer on oath, all and singular, in the matters aforesaid:

OSV DETERMINATION

f/k/a Ocean Surveyor

A documented vessel bearing Official Number 1052907

2.

That a warrant for the arrest of the Documented Vessel, and its engines, machinery, equipment, fixtures, appurtenances, etc., and any and all additions, improvements and replacements thereafter made, in or for the Documented Vessel may issue to enforce the Ship Mortgage, as amended by the Ship Mortgage Amendment, and that all persons claiming any interest therein may be cited to appear and answer the matters aforesaid and that SummitBridge Credit Investments IV LLC have judgment against the Documented Vessel for all amounts due and owing on the Current Note;

3.

That the Documented Vessel, and its engines, machinery, equipment, fixtures,

appurtenances, etc., and any and all additions, improvements and replacements thereafter made, in or for the Documented Vessel, may be condemned and sold by the United States Marshal to pay the demands and claims aforesaid, with interest, costs and attorney fees, and to pay any and all other amounts required to be paid by the mortgagor to the mortgagee under the Ship Mortgage, as amended by the Ship Mortgage Amendment, with interest and costs, that SummitBridge Credit Investments IV LLC may become a purchaser at any sale of the Documented Vessel, and that the proceeds realized to be paid over to SummitBridge Credit Investments IV LLC to satisfy its judgment, security interests and liens;

4.

That, at any U.S. Marshal's sale of the Documented Vessel, SummitBridge Credit Investments IV LLC be entitled to credit bid on the Documented Vessel up to the full aggregate indebtedness owed by OSV Determination, L.L.C. on the Current Note;

5.

That, as security for the repayment of the indebtedness of OSV Determination, L.L.C. due and owing to SummitBridge Credit Investments IV LLC, and as evidenced by the Current Note, the following Ship Mortgage, as amended, be declared to be a valid and subsisting preferred mortgage lien in favor of SummitBridge Credit Investments IV LLC, and upon the Documented Vessel, its engines, machinery, equipment, fixtures, appurtenances, etc., and any and all additions, improvements and replacements thereafter made, in or for the Documented Vessel in the Ship Mortgage, as amended, described and thereby conveyed and transferred, prior and superior to the interests, liens or claims of any and all persons, firms or corporations whatsoever, except such persons, firms or corporations as may hold (superior) preferred maritime liens upon the Documented Vessel:

That certain *First Preferred Ship Mortgage* dated effective December 7, 2009, granted by OSV Determination, L.L.C., as mortgagor, in favor of

Regions Bank, as mortgagee, and encumbering and covering 100% of the documented vessel OSV DETERMINATION, bearing Official Number 1052907, with related items as further described therein, a true and correct copy of which instrument is attached hereto as Exhibit "P-1" and such instrument being recorded with the U.S. Coast Guard, National Vessel Documentation Center, on December 14, 2009 under Batch No. 723045, Document ID 11358003;

As assigned to Plaintiff, SummitBridge Credit Investments IV LLC, by virtue of that certain *Assignment Of First Preferred Ship Mortgage* dated effective December 13, 2012 and executed by Regions Bank in favor of Plaintiff, a true and correct copy of which instrument is attached hereto as Exhibit "P-2 and such instrument being recorded with the U.S. Coast Guard, National Vessel Documentation Center, on February 4, 2013 under Batch No. 8822900, Document ID 3, in substantial compliance with 46 U.S.C. § 31321;

And as amended by that certain *First Amendment To First Preferred Ship Mortgage* dated May 3, 2013, executed by OSV Determination, L.L.C. and Plaintiff and pertaining to the documented vessel OSV DETERMINATION, a true and correct copy of which instrument is attached hereto as Exhibit "P-3 and such instrument being recorded with the U.S. Coast Guard, National Vessel Documentation Center, on May 13, 2013 under Batch No. 11343300, Document ID 3.

6.

That this Court may direct the manner in which actual notice of the commencement of this suit shall be given by SummitBridge Credit Investments IV LLC to the Master or other ranking officer or caretaker of the Documented Vessel, and to any person, firm or corporation who has recorded a notice of claim of an undischarged lien upon the Documented Vessel;

7.

That Defendant, OSV Determination, L.L.C., be cited to appear and answer on oath, all and singular, the matters aforesaid;

8.

That further judgment be rendered herein in favor of Plaintiff, SummitBridge Credit Investments IV LLC, and against Defendants, OSV Determination, L.L.C., John David Silvetti, a/k/a John D. Silvetti, II, Alternative Positioning Solutions, L.L.C., Marine Surveys, L.L.C., and Silvetti Marine Services, L.L.C., *in solido*, on the Current Note in the full and true principal sum of \$2,431,293.07, plus accrued interest in the amount of \$98,880.09 as of and through July 1, 2015, *per diem* interest in the amount of \$587.56 (based on an interest rate of 8.70% per annum for a 360-day year), late charges of 5.00% of the principal amount overdue and owing, and reasonable attorney fees and collection costs and expenses incurred by Plaintiff;

9.

That further judgment be rendered herein in favor of Plaintiff, SummitBridge Credit Investments IV LLC, and against all Defendants, *in solido*, for all costs of these proceedings;

10.

That the proceeds of the sales of the Documented Vessel mentioned in above prayer paragraph 1 above be applied to all indebtedness owed by Defendant, OSV Determination, L.L.C., to Plaintiff, SummitBridge Credit Investments IV LLC, on the Current Note;

11.

That, as security for the repayment of all indebtedness of Defendant, OSV Determination, L.L.C. due and owing to Plaintiff, SummitBridge Credit Investments IV LLC, as evidenced by the Current Note, further judgment be rendered herein in favor of Plaintiff, SummitBridge Credit Investments IV LLC, and against Defendant, OSV Determination, L.L.C., recognizing, preseving, and maintaining and granting the security interests and liens arising from the *Security Agreement* dated

May 3, 2013, in which OSV Determination, L.L.C. granted in favor of Plaintiff, pursuant to the Uniform Commercial Code (La. R.S. 10:9-101, *et seq.*) or other applicable law, security interests or liens in the accounts, inventory, equipment, general intangibles, the Documented Vessel, books and records, proceeds and products of collateral and other items therein described, all owned or possessed by OSV Determination, L.L.C., a true and correct copy of which instrument is attached hereto as Exhibit “P-4” and which security interests and liens granted by OSV Determination, L.L.C. to Plaintiff were perfected by the filing of a *UCC-1 Financing Statement*, a true and correct copy of which instrument is attached hereto as Exhibit “P-5” and being filed on May 14, 2013 as UCC #361124514, and as Mortgage Instrument #1124514, in the official records of the Parish of Orleans; and

12.

That Plaintiff may have such other and further relief as the justice of the cause may require.

Respectfully submitted,

LISKOW & LEWIS, APLC

By: s/Joseph P. Hebert

Joseph P. Hebert
(LA Bar #6734; TX Bar #00789095)
William E. Kellner
(LA Bar #35860)
P. O. Box 52008
Lafayette, Louisiana 70505-2008
822 Harding Street
Lafayette, Louisiana 70503
Telephone: (337) 232-7424
Facsimile: (337) 267-2399
Email: jphebert@liskow.com
wekellner@liskow.com

Attorneys for Plaintiff, SummitBridge Credit
Investments IV LLC

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

SUMMITBRIDGE CREDIT
INVESTMENTS IV LLC

Plaintiff

VERSUS

OSV DETERMINATION, L.L.C.; JOHN
DAVID SILVETTI, a/k/a John D. Silvetti,
II; ALTERNATIVE POSITIONING
SOLUTIONS, L.L.C.; MARINE
SURVEYS, L.L.C.; and SILVETTI
MARINE SERVICES, L.L.C., individually
and *in personam*; and the following
documented vessel, with its engines,
machinery, equipment, fixtures,
appurtenances, etc., *in rem*: OSV
DETERMINATION, f/k/a Ocean
Surveyor, Official Number 1052907

Defendants

*
* CIVIL ACTION NO. _____
*
*
*
* JUDGE _____
*
*
* MAGISTRATE JUDGE _____
*
*
*
*
*
*
*
*
*
*
*
*
*

STATE OF COLORADO
COUNTY OF DENVER

VERIFICATION

BEFORE ME, the undersigned Notary, personally came and appeared,

JUSTIN C. RANNEY

Who, after being duly sworn, did depose and say:

1. That he is a duly-authorized Asset Manager of Summit Investment Management LLC.,
which entity is the contractual asset manager of, and custodian of records for, of

SummitBridge Credit Investments IV LLC;

2. That he has read the foregoing Verified Complaint and the contents thereof, and that the same is true to the best of his knowledge;
3. That the sources of this information are his personal knowledge, including his personal knowledge of statements, documents and information in the possession of SummitBridge Credit Investments IV LLC; and
4. That he makes this Verification as duly-authorized Asset Manager of Summit Investment Management LLC., the contractual asset manager of, and custodian of records for, of SummitBridge Credit Investments IV LLC.


JUSTIN C. RANNEY

SWORN TO AND SUBSCRIBED BEFORE ME, NOTARY, this ²⁹~~24~~th day of July,
2015.


NOTARY PUBLIC

